G. R. S. IX-5]

Previous references.

J.D. 409-13.
" 723-14
Cts 45-13-33.

1914. 15 Courts)

File No. 400-14

Serial Nos. 1—4

Later references.

Cts 4-16 (8.10.71)
cts 111-18 (2+8)
" 295-28 (1-2)
Cts 41-30, 1-2
Cts 722-30, 1-2

Preserve for 10 yrs.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1—4

Part B for Nov 16

SUBJECT.

Re. appointment of Municipal Councillors as Magistrates of the Bench Courts.

To D.M.(1) Mysore(2) Bangalore.
The Presidents of the Coly Municipal Councils

J 1765-6 of 17.11.16

4) states that selection shd be made from among qualified persons who are not in the Municipal Council for places of Hon. Magtes. * that as long as there are Magtes, who are also Municipal Councillors, Mil cases shd not be referred to benches on which they sit.

17/11/16

W D 88—GPB—50,000—21-7-16

G. R. S. 11]

1914. 15

GENERAL AND REVENUE SECRETARIAT.

(Courts)

NOTES.

File No. 400-14

FILE HEADING.

Re appointment of Municipal Councillors as Magistrates of the Bench Court.

From

No.	Dated	Received

Diary No.	Enclos.	Spare Copies.	Serial No.

BRIEF ABSTRACT OF LETTER.

NOTES AND ORDERS.

NOTES—First Sheet.

3613

(1

G.R.S. 13]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

J3613

From the President,
City Municipal Council
Mysore

D.O. No. Dy 10.5.1915

Submits his further representation in the matter of Municipal Council being appointed as Bdy: Magte and requests that the Dist. Magte may be instructed to direct all Municipal cases being tried by the City Magistrate or by a Bench with no Municipal Councillor sitting as a Judge.

1) Subn with previous refce.

Sg. [illegible]
11-5-15.

12

Sg
12/5

First Member)

2) The matter may be dealt with first in the Municipal branch.

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPB—50,000—29-6-14

3613

(2

G.R.S. 13]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

3) The President is not the ~~proper~~ proper authority to make a representation on the judicial phase of the question. If the interests of internal administration require a change, then the matter may be further considered.

12/5/15

4) 2nd number

13/5/15

5) I think it is necessary in the interests of the Int. administration to comply with the request of the President. The matter may be further considered as a test case by removing this drawback.

15/5

6) Please put up any reference available in regard to such cases elsewhere. (e.g. Bombay, Madras)

20/5

7) The references could be traced from Circular orders of the two High Courts. This may be sent to Br IV for reference if any.

15/6/15

Br IV

Br

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

G1·17—50,000—29·6·14

Pol Mis 2460-15.

31/3

(3

G.R.S. 13]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

8) Sub-

According to the Indian year Book, 1916, (Page 555) "in the Presidency towns, Presidency magistrates deal with magisterial cases and benches of justices of the Peace or honorary magistrates dispose of the less important cases"

9) Attention is invited to the lists of the Elected Members, Commissioners of the Madras City Corporation and the Honorary Magistrates for the City of Madras (Pages 717 & 1587 of the Asylum Press Almanack and Directory, 1916). No Member, Corp.n is an Honorary Magistrate.

10) Similar lists for the City of Bombay show that no less than 54 Mbrs, Councillors are Justices of the Peace of whom 23 happen to be elected Councillors

But

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GPB—50,000 —29-4-14

G.R.S. 13]

Routine Notes.

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But arg 3 of the Memb. Committee Lapsen to be Honorary Presidency Magistrate (Vide Pages 332 & 338 of the Times of India Directory for 15/16)

Mus

1/4/16

~~B~~ H Please note practice in England. ~~Join the Centre~~

If I mistake not, ~~most of the~~ all mayors & most of the aldermen are ex officio Police Magistrates & sit by rotation to dispose cases.

Hm 1/4

In England, legal prosecutions and Complaints arising from or incidental to

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPB—53,000—29-6-14

G.R.S. 13]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

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to Municl. Govt are decided by the justices of the Peace whether "in" or "out of" Sessions, subject to the revision of the Superior Courts.

13 Until 1835, the Mayor, Aldermen and all members of the Corporation united with the Corporate office that of Justice of the Peace. By the Reform Act of 1835, Magisterial was severed from Corporate office, and now the only relic of the old system is the position of the Mayor as Ex-Officio Chairman of the borough bench. But he very rarely exercises judicial functions. The Justices of the Peace are appointed by the Crown, never by the local authority and never by popular vote. Hence, they need not shape

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GPB—50,000—5-8-15

3613

G.R.S. 13]

Routine Notes.

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shape their actions with a view to please any particular ward or wards (vide Redlich & Hirst – Club X Organization of Justice in Boroughs)

JMM 8/4/16

Bor 12/4.

Bs 14/4

(14) Sub[d] with refce to para 6.

Hg. 14-4-16 JMM

15) Please put up the references.

Es 14/4

16) The two volumes of "Local Govt in England" by Redlich & Hirst are put up. The Directories mentioned in the above note are, it is said, not available or that they could not be sent – Sealed.

B. 3/5/16) Mk

vide requisition slips at bottom of the file.

Please get 'em from C's in exchange

books obtained from Council Section and are sealed accordingly BS/5/16 MK

N.B.—Should routine notes be written on small slips, the notes must be copied on slips pasted on this form.

(B13)—50,000—5-8-15

J. 3613-14

(7

G.R.S. 13]

Routine Notes.

[To be used only for notes, requisitions, etc., not intended for permanent record.]

1303
5-7-16

17) Under S 536 crim. Procedure Code, a Municipal Commissioner may, as such Commissioner not disqualified from sitting on the Bench trying offences against Municipal Bylaws. But it is a point for Exam whether this recommendation of the President may be given favourable consideration.

EB 4/7

Second Member)

18) The Mayor may be consulted confidentially in the first instance. Send copy of the two letters to the Lt Governor and ask the D.M. (demi-official) to favour Govt with his views. He can communicate with the Mayor.

14-7

N.B.—Should routine notes be written on small slips, the notes must be copied, or slips pasted on this form.

GPB—50,000—5-8-15

14/7

J 5-31 3613-14

8

G. R. S. 12]

General and Revenue Secretariat. | CLS File No. 400 of 1914.

Serial No.

19) Draft put up.

18.7.16 NRL

20) Time

Es 18/7;

2 Do Sir H. Mathan

No 2280 21st July 1916.

Forwards copies of letters regarding the appointments of Municipal Councillors as Bench Magistrates and calls for his views in the matter.

3 From Sir H. Mathan.

No 182 31st Aug: 16

Submits his views in the matter of the appointment of Municipal Councillors as Bench Magistrates.

2157
6.9.16

21) Subs with reference to para 18. Mr Mathan considers it desirable to rule that elected Municipal Councillors should not be eligible to be appointed as Bench Magstes

5-9-16 NRL

Es 6/9

22) Secretary/Member) I agree. But a specific ruling to that effect is ~~[illegible]~~ is unnecessary. It will be sufficient if for future ~~and~~ applts of Hon'ble Magstes this Govt will refrain from selecting Mnl Councillors. The Magste

Be that this will not be "eligible"?

Sec 11/9

NOTE—Contn. sheet.

GPB—70,600—17-12-15

J 531

9

G. R. S. 12]

General and Revenue Secretariat.

File No. 400 of 1916.

Serial No.

Marks that there will be no difficulty in finding other qualified persons for the place.

23) Please draft a letter to the D. Magte of [illegible] stating that, in view of the [illegible] of Jail cases being posted for trial before Hon'ble Magts who are themselves Jail Commissioners, & of the fact that a large no. of the cases referred to [illegible] benches of Hon'ble Magts are themselves Jail cases, Govt consider it desirable that as far as possible selections for places of Hon'ble Magts should be made from qualified persons who are not on the Jail Council, and that, as long as there are Hon'ble Magts who are also Jail Offrs, Jail cases should not be referred to benches on which they sit. Cys to the Jail Rules.

Let me see draft.

Put up Draft herewith

24) Draft letter Subd. Hitherto instructions for the selection of Chairmen of the Bench were conveyed D. O. It is a matter for consideration if the same form may now be adopted. Yes.

25) Draft is submitted

NOTE—Contn. sheet.

GPB—70,000—17-12-15

5 31

G. R. S. 12]

General and Revenue Secretariat.

C/ File No. 400 of 1914.

(10

Serial No.	
	pr approval.
	Es 19/9
2223 / 12.9.16	Second Member) 26) Appd — may also be ordered to the Dewan — Rk 13/9/16
	Dewan) Draft ord Rec 14/9 Es 14/9
28) Assam Tenancy ord draft copy 1551 / 14.9.16	27) The draft may issue if the Members of Council have no objection. 16.10.16 Rk. Draft ord 16/10
	29) Submitted for orders. Es 20/10
305 / 21.10.16	First Member) 30) No Objection 23/10 Ullk Draft ord 24/10
	31) Submitted for order Es 24/10
272. / 24.10.16	Second Member Extraordinary Member } 32) No Objection Ullk-16 Draft ord 26/10. 26/10
	33) Draft Es
4	To the D.Rs re Response and Bangalore 2/11
	No 1765-6 1742. Nov. 1916
	States that selections should be made

NOTE—Contn. sheet.

GPB -70,000—17-12-15

J. R. S. 12]

General and Revenue Secretariat.

Cs File No. 400 of 1914. 15

Serial No.

from among qualified persons who are not * in the Municipal council for Hazaribagh to Honorary Magistrates

NOTE—Contn. sheet.

GPB—70,000—17-12-15

J 3613

(12)

CONFIDENTIAL.

Ch 400-14-1

D.O. No.....

Office of the President,
City Municipal Council,
Mysore.
10th May 1915.

Sir,

Adverting to correspondence ending with - Mr. G.Sreenivasa Iyer's D.O. letter No. J. 3660 dated the 27th April 1915, re' appointment of Municipal Councillors as Magistrates of the Bench Court, I beg to state that the question for consideration is not whether accused persons are satisfied with Municipal Councillor - Magistrates but whether the prosecuting Municipal Council is also satisfied that importial justice is meted-out. I need not point-out that the very object of Municipal prosecutions is the - improvement of sanitary and other conditions of the City and this would be frustrated if offenders against - Municipal laws are left unpunished from some cause or other.

2. In connection with some prosecutions - instituted by the Health Officer, there was an impression that Municipal Councillor-Magistrates who tried the cases shewed open prejudice towards the prosecution side and bias in favor of the accused.

3. With a view to obviate such impressions - in future and to secure importial justice so that the laws may be administered for the good of the Citizens , I submitted my opinion to Government.

4. Section 556 of the Criminal Proceedure Code prohibits the trial of any case by a Judge, who is 'personally interested' therein and the explanation there-to gives

(13

gives the circumstances under which such personal interest is not to be presumed. A Judge whose social status as an elected Councillor depends upon votes given by an accused person before him, or through such person's influence - cannot, in my opinion be said to be not 'personally interested' in that accused, within the meaning of Section 556 of the Criminal Proceedure Code referred-to above. As already reported, it not unfrequently happens that the Municipal Councillor-Magistrate', has to try persons of the mohallas for which they are elected and on whose votes his future election depends.

5. Under these circumstances, I request that as-per my original recommendation the District Magistrate may be requested to direct all cases under the Municipal Regulation and Bye-laws, to be tried before the City Magistrate or any Bench of Magistrates in which no Municipal Councillor is a Judge.

Yours sincerely,

L Krishnama Rao

President.

To.

D.M.Narasinga Rao, Esquire., B.A.,B.L.,
Secretary to the Government of Mysore,
General and Revenue Departments
BANGALORE.

9

G. R. S. 26]

X

CS File No. 400-14

Serial No. 2

Confidential

1917

Diary No. of letter replied to .....

D.O. No. 280/Gen. Two.

General and Revenue Secretariat

( )

, *the* 191 .

To

Dear Sir

I am desired to forward herewith copies of D.O. letters No. 12th April 1915 and 10th May 1915 from the President of the City Municipal Council, Ilpo, regarding the appointment of Municipal Councillors as Bench Magistrates and to request you to favour Govt with your views and recommendations in the matter

Yours sincerely

Sd

for K. Matthan 18/7

over.

Date of issue 21. 7. 1916.

Signed by Mr. G. Srinivasa

paper under disposal

SUBJECT. Dt Magistrate Ilpo

R (E.) 16

J 531

D.O. C No 182 Just of 16-17

OFFICE OF THE DEPUTY COMMISSIONER,
MYSORE DISTRICT.

DATED, MYSORE 31st A u g u s t 1916

Dear Sir,

With reference to your D.O. Letter No. J.280 Cts. 400-14-2 dated 21st July 1916 on the subject of the appointment of Municipal Councillors as Bench Magistrates I beg to state that after careful consideration of the matter I am of the opinion that there is a great deal of force in the representation of the President of the Mysore City Municipality that it is sometimes inadvisable to entrust the trial of cases prosecuted by the Municipal Council before Honorary Magistrates who are also elected Municipal Councillors. Out of 15 Bench Magistrates in the Mysore City, 4 are Municipal Councillors and it sometimes happens that a Bench is constituted with one of these as Chairman and another as Member. It is quite possible that this may occasionally lead to inconvenience as stated by the President of the Municipality. It seems

to

to me desirable to rule that elected Municipal Councillor shall not be eligible to be appointed Honorary Magistrate. The functions of Municipal Councillor and Magistrate are essentially different, and one who wishes to represent the people as their elected representative may sometimes be embarrassed in his duty as a Magistrate. In the Mysore City there is no dearth of men qualified to be appointed Honorary Magistrates, and there will be no difficulty in selecting men for the post who are not elected Councillors.

Yours Truly,

Mathias

To

G. Sreenivasa Iyer, Esquire., B.A., M.L.,
Assistant Secretary to Government,
Bangalore.

5 copies

G. P. S. 26] 11

Confidential

File No. 401-14

Serial No. 4

Diary No. of letter replied to .....

No. J/1265-6

General and Revenue Secretariat

(Courts)

Dated, the 17th November 1916.

To The D. C. (1) Mysore, & (2) Bangalore

Dear Sir

Date of issue 17th November 1916

Signed by Mr. G. Sabhanayagam Esq.

I am desired to state that, in view of the inadvisability of Municipal cases being posted for trials before Honorary Magistrates who are themselves Municipal Councillors & of the fact that a large number of the cases referred to benches of Honorary Magistrates are themselves Municipal cases, Govt consider it desirable that as far as possible Selections to places of Honorary Magistrates should be made hereafter from among qualified persons who are not in

over.

SUBJECT.

Mk-S 16/11/16

(2)

in the Municipal Council, and that as long as there are Magistrates who are also Municipal Councillors, Municipal cases should not be referred to benches on which they sit.

13/9/16

Chief Jones Esq.

Copy for Secy S. D.

Copy to the Presidents of the City Municipal Council, Bangalore (with cl 1 so) & 1767 dy 17th November 1916.

+ City Municipal Council, Mysore & 1768 dy 17th Nov 1916

Ktl
149

List of enclosures

Copied by

Examined by

GPB—20,000—10-10-14